S.B. CIVIL WRIT PETITION No.1379/2001
ASSISTANT DIRECTOR, LAND & BUILDING TAX DEPARTMENT AJMER & Anr V/s THE ANJUMAN MIONIA FAKHRIA CHISTIA SYED ZADGAN KHUDDAM KHWAJA SAHIB, AJMER & Anr.

10.1.2007

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri B.S. Chhaba, Dy. G.A.
Shri Rajesh Kapoor, for respondents.

State of Rajasthan has come up in writ petition against the judgment passed by the learned Addl. Divisional Commissioner, Ajmer in exercise of his revisional powers u/s 19 of the Rajasthan Land & Building Tax Act, 1964. The respondent No.1 was assessed for payment of land and building tax in the sum of Rs.4,76,000/- as on 1.4.1985, for Rs.5,14,500/- as on 1.4.89 and for Rs.38,73,500/- as on 1.4.1997 vide assessment order dated 30.7.98. The respondent preferred an appeal before the

Director, Land & Building Tax, Jaipur under the provisions of section 16 of the said

Act. The said Appellate Authority however rejected the appeal. Respondents thereafter filed revision petition before the Divisional Commissioner, Ajmer who by his order dated 10.3.2000 set aside the order of assessment as also that appeal, only to the extent of payment of interest prior to the period falling before 1.6.95.

Learned Dy. Government Advocate has argued that the Board of Revenue has not correctly interpreted the newly inserted section 17-A vide amendment dated 19.5.95 which has been come effect from 1.6.95. According to the said section, the respondent No.1 was required to pay interest even for the earlier period. He

argued that the learned revisional authority has wrongly construed the provisions of section 17-A and has illegally held that charging interest for

the period anterior to 1.6.95 would tantamount to giving retrospective effect to the said provision. He, therefore, prays that the petition may be allowed and the impugned order may be set aside.

On the other hand, Shri Rajesh Kapoor, learned counsel for respondent No.1 submits that a bare reading of section 17-A would show that such provision would apply only prospectively and interest on payment of tax due for the earlier period cannot be demanded.

Reading section 17A would make it clear that interest on failure to pay tax or

other sum payable, where an assessee commits default in making payment of any amount of tax leviable or payable or of any amount of tax, interest or penalty assessed or payable or of any amount of demand otherwise payable, within the

specified time under the provisions of this Act or the rules made or notification issued thereunder, such assessee shall be liable to pay interest on such amount @ 1½% per month or part thereof, for the period staring from the day immediately succeeding the date specified for such payment and ending with the day on which such payment is made. The said provision does not show that it is intended to be given retrospective effect.

Learned Divisional Commissioner, Ajmer,

has clearly observed in his order that provisions of section 17-A supra were made effective from 1.6.95 and therefore for dues which became payable prior to 1.6.1995, no interest can be levied on such amount. Section 17A supra, if read carefully does not give the impression that the legislature intended to give it

retrospective effect either expressly or by necessary implication. Such provision has been made effective from 1.6.95. If the legislature intended to cover even the dues of the past period for the purpose of charging interest, it would have certainly provided so.

In facts of the case, I do not find any error in the order passed by the learned Additional Divisional Commissioner while

not allowing the petitioner to charge interest for the period prior to 1.6.95. The rest of the order was upheld.

This writ petition is dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.

CHAUHAN/